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January 21, 2010

The Honorable Robert M. Levy
United States Magistrate Judge
United States District Court for
the Eastern District of New York
United States Courthouse, 225 Cadman Plaza East
Brooklyn, New York 11201

Re: **DiMaria v. Goor, et al., Case No. 1:09-cv-1011(JG) (RML)**

Dear Magistrate Judge Levy:

We represent Plaintiff and write in furtherance of your Minute Entry of this afternoon.

In your entry of today, you note that "at this time, the emails do not appear relevant to the motion." For the reasons set forth in our letters of December 24 and 31, 2009 and January 8, 2010, we submit that emails would be relevant to our client's defense to Defendants' motion for partial summary judgment.

While the Court noted today during the conference Defendants' position that emails would not be relevant if Judge Gleeson decided to interpret the stockholders' agreement, as a matter of law, we believe that it cannot be interpreted that way, and information outside of the agreement, including relevant emails, are appropriately submitted in response to such motion.

Accordingly, we would respectfully request that you amend your Minute Entry to reflect that the issue of relevance be left up to Judge Gleeson when ruling on Defendants' motion for partial summary judgment.

Respectfully submitted,


Mark A. Berman (MAB 5202)